

REMARKS

Claims 1-30 are now pending.

The Examiner is thanked for his kind finding of allowable subject matter in claims 9-11 and 23-30 if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5, 8-9, 12, and 19 have been amended to correct minor errors of a clerical nature. New claims 31-44 have been added by this amendment and also particularly point out and distinctly claim subject matter regarded as the invention. No "new matter" has been added by the amendment.

The 35 U.S.C. §103 Rejection

Claims 1-8 and 12-22 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over *Zhang et al.* (US 6,119,160) in view of *Lemaire et al.* (US 6,205,149 B1). This rejection is respectfully traversed.

Generally, the Office Action states that *Zhang* discloses or suggests most of the claim elements and that *Lemaire* discloses or suggests the rest. However, *Zhang* is disqualified as prior art under 35 U.S.C. §§102(e)/103(c) because the subject matter which would otherwise be prior art to the claimed invention and the claimed invention were commonly owned at the time the claimed invention was made. In fact, two of the inventors are common. (M.P.E.P. § 706.02(I))

The present application, Patent Application Serial Number 09/215,630, and US Patent 6,119,160 (*Zhang et al.*) were, at the time the claimed invention of Patent Application Serial Number 09/215,630 was made, commonly owned by Cisco Technology Incorporated. A Continued Prosecution Application (CPA) of the present application was filed on November 22, 2002, a copy of the filing receipt of which is attached herewith. Thus, the present application is entitled to the benefit of the new §103(c) provision, since “[t]he mere filing of a continuation application on or after November 29, 1999 will serve to exclude commonly owned 102(e) prior art that was applied, or could have been applied, in a rejection under 103 in the parent application.” (Guidelines To Implement Changes in 35 U.S.C. 103(c), American Inventors protection Act - Official Gazette April 11, 2002)

Accordingly, prior art *Zhang* must be excluded from the basis of the rejection, and without the support of *Zhang* the rejection fails to be *prima facie*. It is respectfully requested that the rejection of claims based on *Zhang* and *Lemaire* be withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

Request for Entry of Amendment

Entry of this Amendment will place the Application either in condition for allowance, or at least, in better form for appeal by narrowing any issues. Furthermore, the present amendment neither raises a new issue nor requires a new search for the following reasons:

The amendment to claims 5, 8-9, and 12-19 only includes correction of minor errors of a clerical nature, and thus does not affect scope of the claims or any limitations recited therein. In addition, new apparatus (means-plus-function) claims 31-41 precisely correspond to method claims 1-11, and new computer-readable program storage device claims also correspond to method claims 1, 3, and 5, respectively. Thus, all of the limitations in the new claims have been fully considered by the Examiner.


Accordingly, entry of this Amendment is appropriate and is respectfully requested.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account 50-1698.

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: June 6, 2003



Masako Ando

Limited Recognition under 37 CFR §10.9(b)

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UNITED STATE PATENT AND TRADEMARK OFFICE**

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Expires: June 11, 2003

Harry I. Moatz
Director of Enrollment and Discipline